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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/730,676	12/06/2000	J. David Schaffer	US000322	8800

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS

P.O. BOX 3001

BRIARCLIFF MANOR, NY 10510

EXAMINER

MANNING, JOHN

ART UNIT	PAPER NUMBER
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2614

DATE MAILED: 02/09/2005

8

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/730,676

Applicant(s)

SCHAFFER ET AL.

Examiner

John Manning

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☐ Claim(s) 1, 3, 4, 6-12, 14-16, 18-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments with respect to claims 1, 3, 4, 6-12, 14-16 and 18-22 have been considered but are moot in view of the new ground(s) of rejection.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 3, 4, 6-12, 14-16, 18-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Darbee et al. in view of Hendricks (US Pat No 5,798,785).

In regard to claim 1, the Darbee reference discloses a program guide on a remote control display. The claimed limitation of "at least one user interface mechanism adapted to interact with the user" is met by met by Figure 1. The keyboard 15 and visual display 14 act as a user interface mechanism. The claimed limitation of "a processing device" is met by microcontroller 28. The claimed limitation of "presenting the at least one real-time event to the user at the user interface mechanism" is met by the displayed program guide. (Col 9, Lines 39-43). The Darbee reference is silent with respect to the recommendation being determined by a weighting function based on when the real-time event is to begin and end relative to the user's current time to yield a list of real-time event recommendation. Hendricks teaches the use of a weighting function based on when the real-time event is to begin and end relative to the user's

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current time to yield a list of real-time event recommendation so as to provide a recommendations of upcoming shows may be of interest to the viewer. "The TIME criteria 1162 allows a viewer to choose the preferred time of day, the preferred duration (in 30 minute increments up to 2 hours), and the preferred day of the week. An alternative embodiment would allow the viewer to select up to X hour time periods for a certain day in which to search" (Col 31, Lines 58-63). Based on the start time of the program, the duration of the program would indicate the end time of the program. The selection list is show in Figure 11e. Consequently, is would have been clearly obvious to one of ordinary skill in the art to modify Darbee with the use of weighting function based on when the real-time event is to begin and end relative to the user's current time to yield a list of real-time event recommendation so as to provide a recommendations of upcoming shows may be of interest to the viewer.

In regard to claim 3, Darbee discloses "the recommendation is a function of a user profile". "FIG. 2 shows a "predictive agent list" or "viewed item list" which may be generated as a screen display 210. Data is automatically stored in this predictive agent list by the apparatus of the invention, whenever a program is watch for a given period of time, for example, 5 or more minutes. In this way, a record is kept of the user's viewing habits so that the apparatus can be guided to make a prediction of which upcoming shows may be of interest to the viewer" (Col 2, Lines 33-40).

In regard to claim 4, Darbee discloses "the recommendation is a function of a user-selected category" as shown in Figure 6a. "FIGS. 6a-6c show screen displays which enable the user to exercise the features of the invention. Specifically, FIG. 6a is

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a Predictive Agent Main Menu screen accessed for example via the normal hierarchical menu system of the DSS.RTM. satellite television system. The screen display of FIG. 6a has two "softkeys" labelled "Request a Suggestion" and "Edit User Information", respectively. Selecting "Request a Suggestion" causes a prediction operation to be performed, and brings up the screen display of FIG. 6b" (Col 5, Lines 7-14).

In regard to claim 6, Hendricks discloses a minimum and maximum recommendation value for the show as can be see in Figure 11e. If a show did not meet the minimum recommendation value, it would not be on the list. If the show had the maximum value, it would be number 1. Furthermore, Hendricks discloses the criterion and/or weighted factor to be a function of a current time, start time and duration. "The TIME criteria 1162 allows a viewer to choose the preferred time of day, the preferred duration (in 30 minute increments up to 2 hours), and the preferred day of the week. An alternative embodiment would allow the viewer to select up to X hour time periods for a certain day in which to search" (Col 31, Lines 58-63). Based on the start time of the program, the duration of the program would indicate the end time of the program.

In regard to claim 7, Darbee discloses that the apparatus is a remote and the processing device is internal to the remote as shown in Figures 1 and 2 (Col 7, Lines 5-26).

In regard to claims 8 and 9, the disclosed device is for use in a broadcast environment; therefore, the real-time event is broadcasted content and is located at a location external to that of the user.

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In regard to claim 10, Hendricks discloses the use of a "surf ring" in which only recommended events are assigned to the "surf ring" as shown in Figure 11e. "If the viewer desires to view a list of all of these selections and/or corresponding abstracts, the viewer may select the VIEW option 1172 in the main menu 1130. Upon selection of the view option, the microprocessor 602 instructs the selection list menu 1174, as shown in FIG. 11e, to be displayed on the screen. The viewer can scroll down the list by using the cursor and select the desired movie by clicking on the desired program indicated by cursor or highlight. In FIG. 11e, for example, the viewer has selected the John Wayne movie GREEN BERETS. After making the selection, the program is displayed on the screen" (Col 32, Lines 33-43).

In regard to claim 11, Darbee discloses that the presenting occurs via a graphical user interface including an EPG. The "display 'window' views a virtual program information grid with time as the lateral axis and channel, program or content source as the vertical axis. Each screen preferably displays information for one half-hour of the 24-hour period" (Col 9, Lines 39-43).

In regard to claim 12, the claimed limitation of "a display adapted to provide user interface elements to the user" is met by Figure 1, Item 14. The claimed limitation of "a communication outlet adapted to communicate with the consumer electronics device" is met by the RF transceiver circuit 48 of the remote control unit 10 as shown in Figure 2. The claimed limitation of "a processor" is met by microcontroller 28. The claimed limitation of determining "information regarding data content available to be experienced using the consumer electronics device" is met by the displayed program guide. (Col 9,

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Lines 39-43). The claimed limitation of causing "the display to communicate the information to the user" is met by Figures 1 and 2. The "display 'window' views a virtual program information grid with time as the lateral axis and channel, program or content source as the vertical axis. Each screen preferably displays information for one half-hour of the 24-hour period" (Col 9, Lines 39-43). The Darbee reference is silent with respect to the recommendation being determined by a weighting function based on when the real-time event is to begin and end relative to the user's current time to yield a list of real-time event recommendation. Hendricks teaches the use of a weighting function based on when the real-time event is to begin and end relative to the user's current time to yield a list of real-time event recommendation so as to provide a recommendations of upcoming shows may be of interest to the viewer. "The TIME criteria 1162 allows a viewer to choose the preferred time of day, the preferred duration (in 30 minute increments up to 2 hours), and the preferred day of the week. An alternative embodiment would allow the viewer to select up to X hour time periods for a certain day in which to search" (Col 31, Lines 58-63). Based on the start time of the program, the duration of the program would indicate the end time of the program. The selection list is show in Figure 11e. Consequently, is would have been clearly obvious to one of ordinary skill in the art to modify Darbee with the use of weighting function based on when the real-time event is to begin and end relative to the user's current time to yield a list of real-time event recommendation so as to provide a recommendations of upcoming shows may be of interest to the viewer.

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In regard to claim 14, Darbee discloses that the consumer electronics device is a television.

In regard to claim 15, Darbee discloses that the consumer electronics device is an Internet browsing device. "In embodiments where the remote control unit 10 is used in conjunction with a personal computer or web computer, the data stored may also include an internet address or URL designation stamp" (Col 10, Lines 20-23).

In regard to claim 16, Darbee discloses that the information provided comprises an electronic program guide. The "display 'window' views a virtual program information grid with time as the lateral axis and channel, program or content source as the vertical axis. Each screen preferably displays information for one half-hour of the 24-hour period" (Col 9, Lines 39-43).

In regard to claim 18, the claimed limitation of an interface mechanism that provides content to the user and receives input from the use is met by Figure 1. The keyboard 15 and visual display 14 act as a user interface mechanism. The claimed limitations of "a communication facility adapted to receive the content from an external provider" and "a tuning facility for selecting the content to be received via the communication facility" are met by the RF transceiver circuit 48 of the remote control unit 10 as shown in Figure 2. The claimed limitation of a processor "calculating at least one recommended piece of content from amongst a plurality of available pieces of content" is met by Figure 2. , Once "data indicative of the particular viewing habits, content selection characteristics or interests of a particular remote control user or group of users is transmitted to the content provider or host system, the content provider or

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host system may tailor additional programming, advertising or other content to be provided to the remote control unit 10" (Col 10, Lines 32-38). The Darbee reference is silent with respect to the recommendation being determined by a weighting function based on when the real-time event is to begin and end relative to the user's current time to yield a list of real-time event recommendation. Hendricks teaches the use of a weighting function based on when the real-time event is to begin and end relative to the user's current time to yield a list of real-time event recommendation so as to provide a recommendations of upcoming shows may be of interest to the viewer. "The TIME criteria 1162 allows a viewer to choose the preferred time of day, the preferred duration (in 30 minute increments up to 2 hours), and the preferred day of the week. An alternative embodiment would allow the viewer to select up to X hour time periods for a certain day in which to search" (Col 31, Lines 58-63). Based on the start time of the program, the duration of the program would indicate the end time of the program. The selection list is show in Figure 11e. Consequently, is would have been clearly obvious to one of ordinary skill in the art to modify Darbee with the use of weighting function based on when the real-time event is to begin and end relative to the user's current time to yield a list of real-time event recommendation so as to provide a recommendations of upcoming shows may be of interest to the viewer.

In regard to claim 19, Darbee discloses that the remote is coupled to a television. The reference discloses that "the communication facility comprises at least one of an antenna or a cable connection". "In accordance with a presently preferred form of the present invention, a tap antenna unit may be coupled to the set-top box or television

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tuner, or to a cable feeding the set-top box or television tuner" (Col 9, Lines 1-4). In addition to the display 14, of Figure 2, the television screen is inherently an interface mechanism.

In regard to claim 20 and 21, the reference discloses when "the user input is a channel up button actuation, but the automatic tuning does not go to the next channel up in sequence from a current channel" and "the user input is a channel down button actuation, but the automatic tuning does not go to the next channel down in sequence from a current channel". When "the CHANNEL Up or CHANNEL Down keys are pressed, the remote will not output a channel up or down command, but rather will substitute a "direct tune" command to the next higher or next lower numeric channel" (Col 10, Lines 3-7).

In regard to claim 22, The Darbee reference fails to explicitly discloses, when "the user input is a power on actuation and the automatic tuning does goes neither to a last channel previously viewed nor to a default channel"; however, it is submitted that it would have been clearly obvious to one of ordinary skill in the art to implement Darbee with automatically switch a recommendation screen upon power up (i.e. neither to a last channel previously viewed nor to a default channel) to so as to increase the ease of use. The combined teaching fails to explicitly discloses, "automatically tuning the tuning facility to receive the recommended piece of content". However, the examiner takes OFFICIAL NOTICE that it is notoriously well known in the art to "automatically tuning the tuning facility to receive the recommended piece of content" so as to increase the ease of use. Consequently, it would have been clearly obvious to one of ordinary skill in the

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art to implement the combined teaching with "automatically tuning the tuning facility to receive the recommended piece of content" so as to increase the ease of use.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Manning whose telephone number is 703-305-0345. The examiner can normally be reached on M-F: 8:00 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W Miller can be reached on 703-305-4795. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JM  
February 4, 2005



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